

Counsel listed on next page

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Jennifer Meade, individually, on behalf of
all others similarly situated, and on behalf
of the general public

Plaintiff,

v.

Advantage Sales & Marketing, LLC,
Advantage Sales & Marketing, Inc.,
Retail Store Services, LLC, and
KSRSS, Inc.

Defendants.

Case No.: C-07-5239-SI

**JOINT STIPULATION AND PROPOSED
ORDER FOR CONDITIONAL CLASS
CERTIFICATION AND JUDICIAL NOTICE**

Date: June 13, 2008

Judge: Hon. Susan Illston

Date Action Filed: October 12, 2007

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ATTORNEY FOR DEFENDANT

KSRSS, INC.

1 The parties, by and through their counsel of record, submit this Stipulation and Joint Proposed
2 Order for Conditional Class Certification and Court-Authorized Notice.

3 WHEREAS, the parties held a series of telephone conferences in June 2008 and
4 thereafter exchanged e-mails resulting in the parties within agreement to conditionally certify the
5 below defined class, without prejudice to any parties' right to subsequently move to decertify said
6 class, and send court-approved notice to be issued to these allegedly similarly situated class
7 members, subject to the terms described in the Order below:

8 **IT IS HEREBY ORDERED THAT:**

9 1. The following class is conditionally certified under 29 U.S.C. § 216(b) of the Fair
10 Labor Standards Act (FLSA):

11 All persons who are or have been employed by Defendant Retail Store Services LLC
12 ("RSS LLC") or Retail Store Services, Inc., ("RSS, Inc."; now Defendant KSRSS, Inc.) as
13 a Merchandising Representative, and who were classified as exempt employees under the
14 FLSA, at any time within three years prior to this action's filing date through the date of
15 final disposition of this action.

16 2. The Court shall authorize and approve judicial notice to potential opt-ins to inform
17 them of the action and to give them an opportunity to join this action by opting in. The Notice
18 shall be issued within three (3) business days of Plaintiffs' counsel receiving the list described in
19 Paragraph 4 below. The form of the Notice of Pendency of Lawsuit ("Notice") and Plaintiff
20 Consent Form shall be in the same form as those attached as Exhibit A.

21 3. Plaintiffs' counsel, Nichols Kaster & Anderson, PLLP, in Minneapolis,
22 Minnesota shall mail the Notice via first-class U.S. Mail, and shall bear the costs of mailing.

23 4. Defendants RSS LLC and RSS, Inc. (now Defendant KSRSS, Inc.) shall each use
24 their best efforts to provide Plaintiff's counsel with a list no later than twenty (20) days after
25 service of the Court's Order regarding this stipulation, in electronic format, (i.e., Microsoft Excel
26 (.xls), or Symbolic Link (SYLK(.slk)), of all persons employed by it who are or have been
27 employed as a Merchandising Representative, and who were classified as exempt employees
28 under the FLSA, from three years prior to this action's filing date to present, including their

name, most recent known address, dates of employment as a Merchandising Representative, states where employed, and the last four digits of their social security number or their dates of birth.

5. There shall be a ninety (90) day notice period for opting into this lawsuit. Plaintiff Consent Forms post-marked later than 90 days after the Notice is mailed by Plaintiffs' counsel, are not timely, and the individuals sending such untimely Consents shall not be eligible to join this lawsuit.

6. Those persons who have heretofore filed or shall hereafter file a Consent Form seeking to opt-in to this action and who were not employed by Retail Store Services, Inc. or Retail Store Services LLC as a Merchandising Representative and classified as exempt under the FLSA within the three year period prior to the filing of this action are ineligible to become members of the within conditionally certified class and their Consent Form(s) and respective Notice(s) shall be without any force or effect, they are not parties to this action and their Consent Form(s) shall be deemed to have been withdrawn.

Dated: 6/13/2008

s/Matthew H. Morgan

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[Signatures Continued on Next Page]

1 Dated: 6/13/2008

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ATTORNEYS FOR DEFENDANTS

ADVANTAGE SALES & MARKETING LLC,

ADVANTAGE SALES & MARKETING INC.,

RETAIL STORE SERVICES LLC

9 Dated: 6/13/2008

s/Frank Cronin

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Costa Mesa, CA 92626

ATTORNEYS FOR DEFENDANT KSRSS, INC.

17 **IT IS SO ORDERED.**

18 Dated:



The Hon. Susan Illston
U.S. District Court Judge

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Jennifer Meade, individually, on behalf of
all others similarly situated, and on behalf
of the general public

Plaintiff,

v.

Advantage Sales & Marketing, LLC,
Retail Store Services, LLC, and
KSRSS, Inc.

Defendants.

Case No.: C-07-5239-SI

NOTICE OF OVERTIME LAWSUIT

THIS NOTICE AND ITS CONTENT HAS BEEN AUTHORIZED BY THE FEDERAL DISTRICT COURT, THE HONORABLE SUSAN ILLSTON, U.S. DISTRICT JUDGE. THE COURT HAS TAKEN NO POSITION REGARDING THE MERITS OF THE PLAINTIFFS' CLAIMS OR OF DEFENDANTS' DEFENSES.

INTRODUCTION

The purpose of this notice is to inform you of a collective action lawsuit in which you are potentially "similarly situated" to the named Plaintiff, to advise you of how your rights may be affected by this action, and to instruct you on the procedure for participating in this action.

DESCRIPTION OF THE LAWSUIT

The named Plaintiff brings this action against Retail Store Services LLC, and KSRSS, Inc., formerly known as Retail Store Services, Inc., ("Defendants") on behalf of herself and all other individuals who worked as merchandising representatives for Retail Store Services LLC or Retail Store Services, Inc., and who were classified as exempt employees under the Fair Labor Standards Act during the past three years. Specifically, this action alleges that these individuals are owed overtime pay under the Fair Labor Standards Act ("FLSA") 29 U.S.C. § 201, et seq., for work they performed in excess of forty (40) hours per work week.

Defendants deny any wrongdoing or liability and contest all claims that have been asserted. Specifically, Defendants claim that Plaintiff and all other merchandising representatives were properly classified as "exempt" employees and were properly paid for all hours worked and therefore are not owed overtime pay under the FLSA.

YOUR RIGHT TO MAKE A CLAIM IN THIS ACTION

The named Plaintiff alleges that during the last three years she was employed by Defendants Retail Store Services, Inc., and Retail Store Services LLC as a merchandising representative and classified as an exempt employee under the FLSA. She seeks to sue on behalf of herself and all other employees who meet the following requirements:

- (a) were employed by Retail Store Services, Inc. or Retail Store Services LLC as a merchandising representative and classified as an exempt employee under the FLSA in any location across the country at any time from October 12, 2004 to present;
- (b) worked more than forty (40) hours a week during that period without overtime compensation.

If you fit the definition above, you may make an overtime claim in this action by mailing, faxing, or emailing the attached Consent Form to Plaintiffs' Counsel for filing with the Court:

Nichols Kaster & Anderson

Attn: Matthew Morgan
4600 IDS Center, 80 South Eighth Street
Minneapolis, Minnesota 55402
Toll Free Telephone: (877) 448-0492 (no faxes to this number)
Fax: (612) 215-6870
Email: morgan@nka.com

The Consent Form must be post marked on or before [90 DAYS FROM THE DATE THE NOTICE IS MAILED BY PLAINTIFFS' COUNSEL] for you to make a claim in this case.

EFFECT OF JOINING OR NOT JOINING THIS LAWSUIT

If you choose to join this action, you and Defendants will be bound by any ruling, judgment or settlement, whether favorable (e.g. an award for Plaintiff) or unfavorable (e.g. shared liability for payment of costs should Defendants prevail). If you choose not to join this action, you will not be affected by any ruling, judgment, or settlement, entered in this case, favorable or unfavorable. If you choose not to join this action you are free to take action on your own or do nothing at all.

If you are eligible and file a Consent Form, your continued right to participate in this action may depend upon a later decision by the Court that you and the Named Plaintiff are actually "similarly situated" in accordance with applicable laws and that it is appropriate for this case to proceed as a collective action.

STATUTE OF LIMITATIONS

The FLSA has a maximum statute of limitations of three years. If you choose to join this action, you may be able to recover damages if you were improperly denied overtime compensation only for overtime hours worked within two, and in some cases three years, of the date you filed a Consent Form. If you choose not to join this action some or all of your potential claims may later be barred by the applicable statute of limitations.

NO RETALIATION PERMITTED

The law prohibits retaliation against employees or former employees for exercising their rights under the FLSA. Therefore, Defendants are prohibited from retaliating against you in any manner because you choose to participate in this action.

YOUR LEGAL REPRESENTATION IF YOU JOIN

If you choose to make a claim in this case by filing a Consent Form, your interests will be represented by Plaintiffs' Counsel:

Nichols Kaster & Anderson, PLLP
Paul J. Lukas, Donald H. Nichols, Matthew H. Morgan and David C. Zoeller
4600 IDS Center, 80 South 8th Street
Minneapolis, Minnesota 55402
Toll Free Telephone: (877) 448-0492; Website: www.overtimecases.com

Plaintiffs' Counsel has taken this case on a contingency basis. They may be entitled to receive attorneys' fees and costs from Defendants should there be a recovery in Plaintiffs' favor. If there is a recovery, Plaintiffs' Counsel will receive a part of any settlement obtained or money judgment entered. If there is no recovery or judgment in Plaintiffs' favor, Plaintiffs' Counsel will not seek any attorneys' fees from any of the Plaintiffs. The specific terms and conditions will be contained in a fee agreement separately entered into by Plaintiffs' Counsel and you if you decide to participate in this case.

RSS PLAINTIFF CONSENT FORM

I hereby consent to join the action against Retail Store Services LLC, and Retail Store Services, Inc. (now KSRSS, Inc.) (Defendants), as a Plaintiff to make a claim for overtime pay. During the past three years, I worked for Retail Store Services, Inc. and/or Retail Store Services LLC as a merchandising representative and was not paid for all my overtime hours worked.

<<NAME>>

<<ADDRESS>>

<<CITY>>, << STATE>> << ZIP>>

If any of the above information has changed, please update

Signature

Date

Best Telephone Numbers

E-Mail Address

Emergency Contact (and phone number)

Fax, Mail or Email to:
Nichols Kaster & Anderson, PLLP
Attn.: Matthew Morgan
4600 IDS Center, 80 South Eighth Street,
Minneapolis, Minnesota 55402-2242
Fax: (612) 215-6870
Toll Free Telephone: (877) 448-0492
Email: Morgan@nka.com
Web: www.overtimecases.com

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION**

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing document has been filed with the Clerk of the Court on June 13th, 2008 by using the CM/ECF system, which will send a notice of electronic filing to:

Harold Andrew Bridges	drew@bridges-law.com
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David C. Zoeller	zoeller@nka.com , assistant@nka.com

Dated: June 13th, 2008

NICHOLS KASTER & ANDERSON, PLLP

s/ Sylvia Ewald
Sylvia Ewald
Legal Assistant
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Telephone: (612) 256-3294